

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KRISTINE SCHENK, et al . C.A. NO. H-20-3799  
VS. . HOUSTON, TEXAS  
FEBRUARY 19, 2021  
CITY OF PASADENA, TEXAS, et al . 1:55 P.M. to 2:01 P.M.

TRANSCRIPT of INITIAL CONFERENCE  
BEFORE THE HONORABLE VANESSA D. GILMORE  
UNITED STATES DISTRICT JUDGE

APPEARANCES: (All participants appearing by video/Zoom)

FOR THE PLAINTIFFS: THOMAS DEAN MALONE  
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FOR THE DEFENDANTS: NORMAN RAY GILES  
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OFFICIAL COURT REPORTER: KATHY L. METZGER  
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Proceedings recorded by mechanical stenography, transcript  
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1 P R O C E E D I N G S

2 *THE COURT:* All right. In Case No. 20-3799, Schenk  
3 versus City of Pasadena. Who's here to speak for the  
4 plaintiff, please?

13:55:20 5 *MR. MALONE:* Dean Malone on behalf of the plaintiff,  
6 Your Honor.

7 *THE COURT:* And who's going speak for the defendants,  
8 please?

9 *MR. GILES:* Norman Giles.

13:55:30 10 *THE COURT:* Mr. Giles, you represent both the City of  
11 Pasadena and Rigoberto Saldivar?

12 *MR. GILES:* I do.

13 *THE COURT:* Okay. Great. So, have you all -- are you  
14 still working on your disclosures to each other or have you  
13:55:48 15 guys got those finished already?

16 *MR. MALONE:* We don't, Your Honor. We had agreed to  
17 do those this coming Monday, and that was one of the things I  
18 wanted to address. And I have not spoke with Mr. Giles. We've  
19 been affected, as has the whole state, by the storm.

13:56:01 20 *THE COURT:* Okay.

21 *MR. MALONE:* I've had no staff here all week.

22 *THE COURT:* All right.

23 *MR. MALONE:* So my hope was, with the Court's approval  
24 and obviously with Mr. Giles' approval, we could probably push  
13:56:09 25 that out two weeks or so.

13:56:11 1           *THE COURT:* Okay. Just as long as you guys get them  
2 done within the next little bit. That sounds all right with  
3 you, Mr. Giles?

4           *MR. GILES:* It certainly does.

13:56:19 5           *THE COURT:* Okay. Everybody do okay over the last few  
6 days? Mr. Malone, how did you do?

7           *MR. MALONE:* It's been interesting. You know, we lost  
8 power most of the time. We spent a couple of nights at a  
9 hotel. And then the second night the hotel cuff off all of its  
13:56:35 10 water. So, you know, you pick your poison. Do you want lack  
11 of heat. Do you want lack of water. But we've been more  
12 fortunate than many who have had either neither. So I have a  
13 lot to be thankful for.

14           *THE COURT:* Out of the firing pan into the fire, huh?

13:56:48 15           *MR. MALONE:* Yeah, exactly, exactly.

16           *THE COURT:* All right. You doing okay, Mr. Giles,  
17 though?

18           *MR. GILES:* Well, I lost my electric and the water for  
19 half the week, but now I have the electric back, but I've got  
13:56:58 20 some broken pipes in my ceilings.

21           *THE COURT:* Ooh, no you don't. Are you one of  
22 those -- you're one of those people that's going to make a  
23 plumber rich next week, right?

24           *MR. GILES:* That's right, if you can find one.

13:57:10 25           *THE COURT:* Isn't that the truth. Isn't that the

1 truth.

2 *MR. GILES:* Yeah.

3 *THE COURT:* All right. So let's see if we can get  
4 those done, those disclosures to each other within about the  
5 next two weeks. Let me know if there's any problem with that.

6 *MR. MALONE:* All right.

7 *THE COURT:* Is this everyone that you expect to be in  
8 the case though, right, Mr. Malone?

9 *MR. MALONE:* Yes, Your Honor.

10 *THE COURT:* Okay. Do you need any time at all to  
11 amend your pleadings or add any additional parties?

12 *MR. MALONE:* We had a proposed date in our joint  
13 report, which I think is fine from our perceptive. But quite  
14 honestly, again, I don't expect to add anybody.

15 *THE COURT:* Let me see. What did y'all have? Oh,  
16 yeah, here it is. Y'all had all these double sets of things.  
17 I'm not doing that. I'm not doing all that double sets of  
18 dates stuff. Maybe y'all do that with somebody else. I  
19 understand that the defense may bring up qualified immunity,  
20 whatever. I'm setting one set of deadlines. Y'all figure it  
21 out.

22 April the 9th, amendments to pleadings and  
23 addition of new parties.

24 I don't see what the difference is on experts on  
25 qualified immunity versus the experts for the whole case. So I

13:58:05 1 don't see any reason to set two deadlines for expert witnesses.  
2 I'm setting one deadline. Is July 9th going to work for  
3 deadline for all expert witnesses in this case or not?  
4 Mr. Malone?

13:58:15 5 *MR. MALONE:* Well, we would have to get our discovery  
6 moving pretty quickly, which I fully intend to do. And  
7 Mr. Giles and I have worked together on other cases, so I  
8 suspect we can do that. I mean, we're just in February, so I  
9 think that's true. And obviously I'll let Mr. Giles address --

13:58:30 10 *THE COURT:* Well, that seems a little ambitious to me,  
11 given, you know, everything that's going on.

12 *MR. MALONE:* I'd prefer it be later. And, again, I  
13 know -- I suspect Mr. Giles has arguments about qualified  
14 immunity and all --

13:58:43 15 *THE COURT:* Right.

16 *MR. MALONE:* -- but if the Court is telling us that  
17 it's not going to bifurcate discovery, then I would prefer  
18 later dates. When we proposed these, even with the  
19 bifurcation --

13:58:53 20 *THE COURT:* Okay. But, Mr. Giles, you can file your  
21 motion on qualified immunity whenever you want to, because  
22 obviously you don't want -- I mean, the sooner you get your  
23 motion on qualified immunity filed, the sooner I can address  
24 and deal with that issue and you can figure out what other  
13:59:05 25 discovery needs to be done, if any. So if you have your

1 qualified immunity motion ready to go soon, then that's fine  
2 with me.

3                   Anyway, here's your deadlines: August 1 is  
4 plaintiffs' deadline for expert witnesses.

5                   September 1 is defendants' deadline for expert  
6 witnesses.

7                   December 1 is your discovery cutoff.

8                   *MR. MALONE:* I missed the middle date, Your Honor.  
9 I'm sorry, I didn't hear you.

10                  *THE COURT:* What middle date? I'm sorry.

11                  *MR. MALONE:* I'm sorry. Defendants' experts  
12 designation deadline.

13                  *THE COURT:* I don't know. I don't remember what I  
14 said.

15                  *MR. GILES:* I think you said September 1st.

16                  *THE COURT:* Now I'm confused. I don't even know what  
17 it was.

18                  *MR. GILES:* I heard September 1st, Your Honor.

19                  *MR. MALONE:* I heard that was for plaintiff, but I  
20 could be wrong.

21                  *THE COURT:* We'll send it to you.

22                  *MR. MALONE:* Okay.

23                  *THE COURT:* December 1 is the discovery cutoff.

24                         January 15, 2022, is the motions deadline.

25                         5A is 4-22-22.

1 5B is 4-25-22.

2 Docket call is 4-29-22. That gives you a

3 May 2022 trial date.

4 But, Mr. Giles, you can file your qualified

5 immunity motion whenever you want to, if you have that ready to

6 go.

7 *MR. GILES:* Thank you, Your Honor.

8 *THE COURT:* I'm not -- you know, you don't have to

9 wait all the way until the motions deadline. Obviously that

10 could impact what discovery you have to do, if any, right? So

11 the sooner the better on qualified immunity, if that's an issue

12 that you're going to raise.

13 Can we talk about anything else?

14 *MR. MALONE:* Not from plaintiffs' perspective.

15 *MR. GILES:* Not from the defense.

16 *THE COURT:* All right. Y'all be safe. Have a good

17 weekend.

18 *MR. MALONE:* Thank you very much.

19 *THE COURT:* All right. Bye-bye.

20 *(Concluded at 2:01 p.m.)*

21 \* \* \*

22 I certify that the foregoing is a correct transcript from the

23 record of proceedings in the above-entitled cause, to the best

24 of my ability.

25 /s/ Kathy L. Metzger  
Kathy L. Metzger  
Official Court Reporter

4-29-2021  
Date